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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/658,059 | 09/09/2003 | Hubert Benzel | 10191/3285 | 5502 |
| 26646 | 7590 | 12/07/2004 | EXAMINER | |
| KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004 | | | ALLEN, ANDRE J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2855 | |

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,059

Applicant(s)

BENZEL ET AL.

Examiner

Andre J. Allen

Art Unit

2855

[Signature]

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at Issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Lischer et al.

Regarding claims 1 and 6 Brown teaches a first sealed 38 volume defined by a first body portion 22; a second sealed 40 volume defined by a second body portion 25; a pressure diaphragm 30 having a first side (col. 3 line 55) and a second side (col. 3 line 60), wherein a pressure of the first sealed volume acts on the first side (col. 3 line 54-56), and a force diaphragm 30 exposed to a force (co. 3 lines 30-32); wherein the pressure of the first volume is dependent on the force acting on the force diaphragm (co. 3 lines 30-32). Although Brown does not

clearly specify a force diaphragm, one could broadly interpret the pressure diaphragm taught by Brown as a force diaphragm since the pressure diaphragm taught by Brown receives a force from a pressure fluid. Therefore, the pressure diaphragm is being interpreted as force diaphragm.

Brown does not teach a pressure of the second sealed volume acts on the second side of the diaphragm. Lischer teaches first 110 and second 112 sealed volumes where each volume acts on opposing sides of a diaphragm 120 (abstract)(col. 1 lines 19-30). Since Brown disclose at least one sealed volume that acts on a first side of a diaphragm, It would have been obvious to a person having ordinary skill in the art of pressure transducers at the time the invention was made to modify Brown with a second sealed volume that acts on the opposite side of the diaphragm as taught by Lischer for the purpose of providing a parameter inactive of a differential pressure between the two volumes (col. 1 lines 29-33 Lischer)

Regarding claims 2 and 7, although Brown does not specify the first and second sealed volumes to have the same temperature since Brown does show the same fluid within the sealed volumes (col. 2 lines 63-65). This would imply that the fluid would substantially be the same temperature in the volumes.

Regarding claims 3 and 8 Brown teaches the first and second sealed volumes are hermetically sealed (col. 4 lines 64-68).

Regarding claim 4 Brown teaches a mechanical stop 24.

Regarding claim 5 Brown teaches a strain gauge 32 connected to the pressure diaphragm (col. 1 lines 18-20).

Response to Arguments

2. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre J. Allen whose telephone number is 571-272-2174. The examiner can normally be reached on mon-fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Andre Allen
Patent Examiner
Art Unit 2855



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